

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

RUBEN OTERO,

Movant

-vs-

UNITED STATES OF AMERICA,

Respondent

NO. 3:CV-05-1116  
[Criminal No. 03-109/01]  
(Judge Kosik)

**ORDER**

The movant, Ruben Otero, ["movant"], is in custody under sentence of this court. On June 2, 2005, this court received a motion made under 28 U.S.C. §2255 filed by the movant attacking his sentence. Because movant is represented by counsel, no Notice of Election will be provided under *United States v. Miller*, 197 F.3d 644 (3d Cir. 1999).

An initial evaluation of the motion and the record of the case does not conclusively show that the prisoner is entitled to no relief. Accordingly, pursuant to §2255, we will direct that notice of the motion be served upon the United States Attorney.

AND NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

[1] The Clerk of Court shall serve notice of the movant's 28 U.S.C. §2255 motion upon the United States Attorney for this district;

[2] The Respondent, within twenty (20) days of the date of this Order, shall respond to the allegations in the motion;

[3] A determination as to whether the movant should be produced for a hearing will be held in abeyance pending the filing of a response; and,

[4] The movant shall, if he so desires, file a reply to the response within fifteen (15) days of its filing.

s/Edwin M. Kosik  
United States District Judge

Dated: June 9, 2005